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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAFAYETTE-OPELOUSAS DIVISION

KEVIN L. LABBE

\*

CIVIL ACTION NO. 04-1294

VERSUS

\*

JUDGE HAIK

COMMISSIONER OF SOCIAL  
SECURITY

\*

MAGISTRATE JUDGE HILL

JUDGMENT

This matter was referred to United States Magistrate Judge C. Michael Hill for Report and Recommendation. After an independent review of the record, and noting the absence of any objections, this Court concludes that the Report and Recommendation of the Magistrate Judge is correct and adopts the findings and conclusions therein as its own.

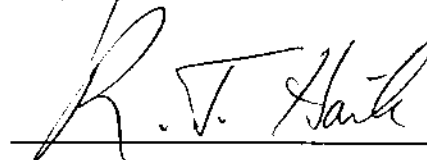
Accordingly, **IT IS ORDERED, ADJUDGED AND DECREED** that the Commissioner's previous administrative decision is **REVERSED** and this action is **REMANDED** to the Commissioner for further administrative action pursuant to the fourth sentence of 42 U.S.C. § 405(g).<sup>4</sup> This includes, but does not limit, sending the

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<sup>4</sup>A fourth sentence remand constitutes a "final judgment" that triggers the filing period for an EAJA fee application. Shalala v. Schaeffer, 509 U.S. 292, 113 S.Ct. 2625, 2631 (1993); Freeman v. Shalala, 2 F.3d 552 (5<sup>th</sup> Cir. 1993).

case to the hearing level with instructions to the Administrative Law Judge to assess claimant's impairments in light of his obesity and develop the record by conducting an adequate hearing.

Lafayette, Louisiana, this 8<sup>th</sup> day of August, 2005.

A handwritten signature in cursive script, appearing to read "R. T. Haik", written over a horizontal line.

RICHARD T. HAIK

UNITED STATES DISTRICT JUDGE